

**BEFORE THE TENNESSEE REGULATORY AUTHORITY  
NASHVILLE, TENNESSEE**

**August 24, 1999**

<b>IN RE:</b>	)	
	)	
<b>PETITION OF YORKVILLE TELEPHONE</b>	)	<b>DOCKET NO. 99-00298</b>
<b>COOPERATIVE, INC. FOR APPROVAL OF AN</b>	)	
<b>INTRALATA TOLL DIALING PARITY PLAN</b>	)	

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**ORDER APPROVING THE INTRALATA TOLL DIALING PARITY  
IMPLEMENTATION PLAN**

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This matter came before the Tennessee Regulatory Authority (the "Authority") on June 8, 1999, at a regularly scheduled Authority Conference, to consider the Petition of Yorkville Telephone Cooperative, Inc. ("Yorkville"), for approval of its IntraLATA Toll Dialing Parity Implementation Plan ("the Plan").

Section 251(b) of the Telecommunications Act of 1996 ("the Act") requires all Local Exchange Carriers to provide dialing parity.<sup>1</sup> Specifically, section 251 (b)(3) of the Act states, "Dialing Parity - The duty to provide dialing parity to competing providers of telephone exchange service and telephone toll service, and the duty to permit all such providers to have nondiscriminatory access to telephone numbers, operator services, directory assistance, and directory listing, with no unreasonable dialing delays." The Act further states in sections 251(f)(1) and 251(f)(2) that a rural telephone company may file with the state commission for exemption, suspension or modification of the dialing parity requirements.

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<sup>1</sup> Telecommunications Act of 1996, Pub. L. No. 104-104, (February 8, 1996), codified at 47 U.S.C. §§151 *et seq.*

**FILE**

The Federal Communications Commission ("FCC") initiated a rulemaking on dialing parity on April 19, 1996 and issued its findings in FCC 96-333 Order (Docket 96-98) adopted on August 8, 1996. This Order sets forth the criteria and guidelines for filing of a plan by all carriers. Subsequent to this Order the United States Court of Appeals for the Eighth Circuit vacated the FCC's rules, as they were applicable to intrastate services.<sup>2</sup> On January 25, 1999, the United States Supreme Court reversed certain portions of the Eighth Circuit's decision including that part of the decision which had stricken the FCC's rules pertaining to dialing parity.<sup>3</sup>

The FCC's original date for implementation, February 8, 1999, was reinstated by the Supreme Court's decision of January 25, 1999. As a result of this reinstatement, the FCC released FCC 99-54 Order (Docket 96-98) on March 23, 1999, which set forth revised implementation dates for dialing parity. This Order establishes April 22, 1999 as the new date by which all Local Exchange Carriers must file an IntraLATA Toll Dialing Parity Plan with State Commissions for approval. The Plan must be implemented within thirty (30) days after approval from the State Commission. Additionally, the Order states that the Plan must be filed with the Common Carrier Bureau of the FCC if the State Commission has not acted on the Plan by June 22, 1999.

Yorkville is a telecommunications company operating under Tenn. Code Ann. Title 65, Chapter 29, as a cooperative local exchange carrier that provides telecommunications services in Tennessee. Pursuant to 47 C.F.R. § 51.213, Yorkville is required to file a plan with the Authority that provides for implementing intraLATA toll dialing parity in all Yorkville exchanges in

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<sup>2</sup> FCC v. Iowa Utils. Bd., United States Court of Appeals for the Eighth Circuit, July 18, 1997.

<sup>3</sup> AT&T v. Iowa Utils. Bd., 119 S.Ct. 721 (1999).

Tennessee.<sup>4</sup> This plan must allow customers to pre-subscribe to different carriers for local service, intraLATA toll service and interLATA toll service.<sup>5</sup>

Yorkville filed its IntraLATA Toll Dialing Parity Implementation Plan on April 22, 1999. The Plan includes a request for modification of the effective date until March 31, 2000 and relaxation of the requirement that prohibits a default carrier to be specified as a means of accomplishing IntraLATA Toll Dialing Parity. Cost information associated with the modification request was submitted on May 19, 1999.

Yorkville's request to delay the implementation of IntraLATA Toll Dialing Parity is due to additional time needed to reconfigure its network. Yorkville is in the process of upgrading its switches in the Yorkville, Brazil, Mason Hall and Trimble Tennessee exchanges. This upgrade is scheduled to be complete by October 1, 1999. Yorkville, however, maintains that additional time is needed after the upgrade is complete in order to ensure that the upgrades are working properly. Yorkville states that it will incur a substantial monetary penalty in software and other expenses if it is required to implement IntraLATA Toll Dialing Parity prior to March 31, 2000.

Yorkville requests a relaxation of the requirement that prohibits a default carrier to be specified as a means of accomplishing IntraLATA Toll Dialing Parity. The Company maintains that this requirement is set forth in FCC Order 96-333, Paragraph 41, which states "A LEC's plan may not accomplish toll dialing parity by automatically assigning toll customers to itself, to a customer's currently presubscribed interLATA or interstate toll carrier, or to any other carrier

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<sup>4</sup> Under 47 C.F.R. §51.213, the Federal Communication Commission requires that an IntraLATA toll dialing parity plan contain: (1) a proposal that explains how the local exchange carrier will offer intraLATA toll dialing parity for each exchange that such carrier operates in the state, in accordance with the provisions of this section, and a proposed time schedule for implementation; and (2) a proposal for timely notification to its subscribers and the methods it proposes to use to enable each subscriber to affirmatively select an intraLATA toll service provider. The state commission must approve any such plan prior to implementation.

<sup>5</sup> Pre-subscription allows the customer to place a call without dialing an access code.

except when, in a state that already has implemented intrastate, intraLATA toll dialing parity, the subscriber has selected the same intraLATA and interLATA presubscribed carrier.” The company also states that it intends to assign new customers not selecting an intraLATA carrier to “no PIC”<sup>6</sup>, notify existing customers that a choice of intraLATA carriers is now available and allow existing customers not affirmatively changing carriers to remain with the existing provider.

The Directors considered Yorkville's Plan at the June 8, 1999 Authority Conference. The Directors unanimously voted to approve the request for a delay in the implementation of intraLATA toll dialing parity until March 31, 2000. Accordingly, Yorkville Telephone Cooperative, Inc. should refile its intraLATA toll dialing parity plan sixty (60) days prior to the approved implementation date of March 31, 2000. Upon filing, the Plan should comply with all applicable sections of FCC Order 96-333. Based on the representations of Yorkville, the request for relaxation is not necessary nor warranted because the plan as represented will conform to the FCC Order 96-333.<sup>7</sup>

**IT IS THEREFORE ORDERED THAT:**

1. The request of Yorkville Telephone Cooperative, Inc., to delay implementation of IntraLATA Toll Dialing Parity until March 31, 2000 is approved;
2. The request of Yorkville Telephone Cooperative, Inc., for relaxation of the requirement that prohibits a default carrier to be specified as a means of accomplishing IntraLATA Toll Dialing Parity is not necessary or warranted;
3. Yorkville Telephone Cooperative, Inc. is directed to refile its IntraLATA Toll

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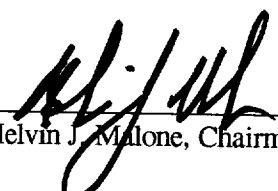
<sup>6</sup> Per FCC Order 96-333, “The nonselecting customer dials a carrier access code to route their intraLATA toll or intrastate toll calls to the carrier of their choice....”

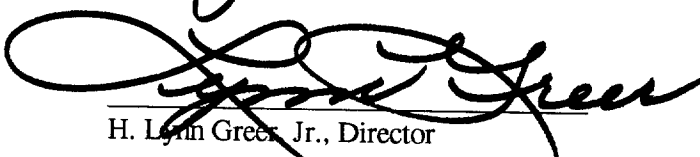
<sup>7</sup> CC Docket 96-98, FCC 96-333, released August 8, 1996, para. 386.

Dialing Parity Plan sixty (60) days prior to the implementation date of March 31, 2000;

4. Yorkville Telephone Cooperative, Inc., shall comply with all applicable sections of FCC Order 96-333 once IntraLATA equal access is implemented; and

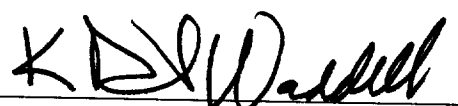
5. Any party aggrieved by the Authority's decision in this matter may file a Petition for Reconsideration with the Authority within ten (10) days from and after the date of this Order.

  
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Melvin J. Malone, Chairman

  
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H. Lynn Greer, Jr., Director

  
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Sara Kyle, Director

ATTEST:

  
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K. David Waddell, Executive Secretary